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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,620	12/05/2001	Atsushi Sakamoto	401471/CHISSO	1955
23548	7590	06/18/2004	EXAMINER	
LEYDIG VOIT & MAYER, LTD 700 THIRTEENTH ST. NW SUITE 300 WASHINGTON, DC 20005-3960			SAYALA, CHHAYA D	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/002,620	Applicant(s) SAKAMOTO ET AL.	
	Examiner C. SAYALA	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-32 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-27 is/are allowed.
- 6) ☒ Claim(s) 4-13 and 28-32 is/are rejected.
- 7) ☐ Claim(s) 14-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There appears to be a noun missing after "one or more".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4-8, 29, 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson et al. (US Patent 4280830).

Ferguson et al. teach a urea-formaldehyde condensation granular product with the same phosphates as shown in the instant specification. The P<sub>2</sub>O<sub>5</sub> content is also the same as is the granular size. Note that the carrier is not excluded by the claims. See cols. 5 and 6 and example 1.

3. Claims 4-8, 29, 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Goertz (US Patent 4025329).

Goertz discloses a granular fertilizer composition containing urea-formaldehyde condensation product and phosphates of the type claimed herein. Col. 3, lines 1-5. Note the particle sizes at col. 4, lines 65-69, which overlaps with the claimed sizes. Products with  $P_2O_5$  amounts are shown in the examples. See col. 7, line 60; col. 9, line 41; col. 10, line 11; col. 12, line 61.

4. Claims 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Sakai et al. or JP 1000381 or Goertz et al.

The patents teach the urea-aldehyde condensation fertilizer. Applicants' claim is written in product-by-process format and as such, it is the novelty of the instantly claimed product that need be established and not that of the recited process steps. *In re Brown*, 173 USPQ 685 (CCPA 1972); *In re Wertheim*, 191 USPQ (CCPA 1976).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goertz or Ferguson et al. in view of Sakai et al. (US Patent 6500223) and JP 10001381.

The primary references are as discussed above. The patents do not teach a water-repellent substance. The Sakai et al. patent teaches a wax-coated granular fertilizer which is excellent in mechanical strength, that provides controlled release for a long period of time before degrading in a natural environment. Col. 2, lines 40-45. Similarly, JP '381 teaches using a lubricant for a urea-aldehyde granular fertilizer lubricant for a urea-aldehyde granular fertilizer that teaches castor oil derivatives. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the compositions of the primary references with the lubricant/wax of the secondary references because of the advantages shown by Sakai et al. at col. 2, lines 40-45.

#### ***Allowable Subject Matter***

Claims 14-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Amendment***

Applicant's arguments with respect to claims 4-19 and 28-32 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



C. SAYALA  
Primary Examiner  
Group 1700.